

MINUTES

MONTANA SENATE 56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON FISH AND GAME

Call to Order: By **CHAIRMAN KEN MESAROS**, on March 11, 1999 at 3:15 P.M., in Room 325 Capitol.

ROLL CALL

Members Present:

Sen. Ken Mesaros, Chairman (R)
Sen. Mike Taylor, Vice Chairman (R)
Sen. Tom A. Beck (R)
Sen. Al Bishop (R)
Sen. William Crismore (R)
Sen. Steve Doherty (D)
Sen. Pete Ekegren (R)
Sen. Jon Ellingson (D)
Sen. Eve Franklin (D)
Sen. Bea McCarthy (D)
Sen. Jack Wells (R)

Members Excused: Sen. Chuck Swysgood (R)

Members Absent: None.

Staff Present: Leanne Kurtz, Legislative Branch
Adrienne Pillatzke, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 20, 3/11/1999; HB 26,
3/11/1999
Executive Action: None.

HEARING ON HB 20 AND HB 26

Sponsor: REPRESENTATIVE SAM KITZENBERG, HD 96, Glasgow

Proponents: Ken Hoovestall, Walleyes Unlimited of MT
SENATOR JON TESTER, SD 45, Big Sandy
Chuck Lawson, Citizens for a Fort Peck Fish
Hatchery
Roy Snyder, Corps of Engineers at Fort Peck Lake
Brian Milne, Sidney
Diane Brandt, Glasgow
Jim Rector, Missouri River Basin Committee
Gloria Paladichuk, Richland Economic Development
and Glendive
Amy Sullivan, MT Tourism Coalition
Jean Johnson, MT Outfitter's and Guide's Assoc.
John Daggett, Valley County Sportsmen's Club
Don Groven, Havre Walleyes Unlimited
Bob Gilbert, Self and Rock Creek Cabin Association
on Fort Peck Lake and Fort Peck Lake Association
Joe Herbold, Walleyes Unlimited
Doug Hill, Walleyes Unlimited
George Anderson, Teton County Walleye Fisherman
Dale Gilbert, Walleyes Unlimited
Mark Weed, Kalispell
James Carver, Malta Chamber of Commerce and
Agriculture, and Malta Chapter of Walleyes
Unlimited
Carl Seilstad, Walleyes Unlimited
Randy King, Walleyes Unlimited
Fred Easy, Helena
Chuck Worley, Wolf Point/Poplar Walleye Chapter
Doug Adolphson, Lacasa Motel, Glasgow

Opponents: Jerry Wells, MT Chapter of American Fishery Society
Bill Holdorf, Skylines Sportsmen Association and
Anaconda Sportsman's Association
Kate Grant, MT Trout Unlimited

Informational: Pat Graham, Fish Wildlife and Parks

Opening Statement by Sponsor:

REPRESENTATIVE SAM KITZENBERG, HD 96, Glasgow, asked why does the largest water body in Montana, Fort Peck, not have a fish hatchery. He said if a person was fishing on the Fort Peck reservoir they would be lucky to catch one fish every four hours. He commented on other lakes a fisherman could catch three fish every hour. He entered a study regarding walleye stocking in Lake Sakakawea conducted by the North Dakota Game and Fish Department, **EXHIBIT(fis55a01)**. He commented on the results of

the study. He said the fish hatchery in Miles City is producing 2,300,000 fingerlings. He noted what lakes fingerlings are being stocked. He said only 10% of fingerlings survive after being released. He said currently there are seven trout hatcheries and one warm water fishery at Miles City. He entered

EXHIBIT(fis55a02).

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Proponents' Testimony:

Ken Hoovestall, Walleyes Unlimited of MT, said they fish for trout, perch, salmon, bass and all other sport fishing species. They work towards the propagation of all species and are willing to pay for better opportunities. He said they stress the importance of the family outings, experiences and because they want to go fishing. They support the construction of a multi-species fish hatchery at Fort Peck.

SENATOR JON TESTER, SD 45, Big Sandy, said he was representing SD 45 and the fisherman and people of that district. He said the hatchery will stock lakes in eastern Montana with fish which will make the walleye fishing in the state top flight. He said since the hatchery will be paid by private funds, it will be an opportunity the state does not want to miss out on. He said this is an opportunity to bring in some money to the state. He told a story about of a resident in Idaho who would go fishing in Montana instead of Canada if there were better fishing in Montana.

Chuck Lawson, Citizens for a Fort Peck Fish Hatchery, entered written testimony, **EXHIBIT(fis55a03).**

Roy Snyder, Corps of Engineers at Fort Peck Lake, provided written testimony, **EXHIBIT(fis55a04).**

Brian Milne, Sidney, said he is a principal engineer with the Interstate Engineering firm. He said the firm was contacted by the Friends of the Fish Hatchery group in October. They reviewed the 1983 study done on the feasibility of building a fish hatchery at Fort Peck. The firm had done the preliminary design, design engineering and construction management of the fish hatchery below Garrison Dam in North Dakota. The Friends of the Fish Hatchery wanted Mr. Milne to determine a current cost estimate for building a fish hatchery which would consist of the building, the concrete race ways and earth and rearing ponds. The cost estimate was in excess of 12 million dollars. He said at that time the committee realized that the money generated by the stamp would not be able to build the facility in one project. He entered **EXHIBIT(fis55a05),** a case study of the project in

North Dakota. He discussed the handout. They feel the phased approach with the income generated by the stamp and the federal match that the project is very feasible.

Diane Brandt, Glasgow, entered written testimony, **EXHIBIT(fis55a06).**

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Jim Rector, Missouri River Basin Committee, said years ago the Engineers Corps proposed a master manual review on the Missouri River Basin. It was met with great opposition throughout the entire Basin from Glasgow to St. Louis. He said a commission was established which was composed of the head of the DNRC type organization. He said between two and three years ago they decided the best way to resolve the issue was to bring together the users who have conflicts. He said the recreational users in Montana have a direct conflict with the downstream navigators. He said at each of the Basin wide meeting the topic of a multi-species sport fishing hatchery at Fort Peck has been discussed. He said there is a lot of support in the organization for the federal funding. He said there is support outside of Montana. He said if there is an amendment offered for the bill, he suggested to add the pallet sturgeon as an authorized fish for the hatchery.

Gloria Paladichuk, Richland Economic Development and Glendive, said the Fort Peck Dam area is a vital part of recreation for eastern Montana as well as out-of-state visitors. The proposed fish hatchery will only enhance the recreation for the area along with an increase of visitors. They believe the fish hatchery will enhance fishing in Fort Peck.

Amy Sullivan, MT Tourism Coalition, said tourism in Northeastern Montana has problems getting people there. He said the other tourism regions take 5% of their bed tax collections and put them into a fund to help Northeastern Montana to promote tourism attractions in their area. The warm water fishery will go a long way towards helping tourism in Montana.

Jean Johnson, MT Outfitter's and Guide's Association, said anything which enhances the business that moves away from the hunting component is a welcome addition to the overall business.

John Daggett, Valley County Sportsmen's Club, entered written testimony, **EXHIBIT(fis55a07).**

Don Groven, Havre Walleyes Unlimited, said the Miles City hatchery is not able to make the walleye fingerlings or the other

warm water fish which are needed and will be needed in the future. He entered and discussed the handout, **EXHIBIT(fis55a08)**. He said if something happened to the Miles City hatchery there is no back up. Fishing pressure in most warm water fisheries has gone up 65% while productions of warm water fish have not changed. Montana planted 3,918 pounds of warm water fish compared to the 310,688 pounds of trout in 1997. He quoted from the last page of the handout. He said out of all the pounds of fish planted last year, only 1.2% were warm water fish. He commented on his experience of fishing at Fort Peck. He said .026 is the catch ratio at Fort Peck which is the lowest on any reservoir in the Missouri system. He said every year at Fort Peck there are 1.5 million fingerlings but only 10% survive. He said there is 1 fish for every 40 million gallons of water.

Bob Gilbert, Self and Rock Creek Cabin Association on Fort Peck Lake and Fort Peck Lake Association, said he wants fish to be available on the lake for Montanans. Every year more people from the western Montana are discovering Fort Peck and the thrill of fishing. He said the bills are a good way of putting enough fish in the lake so people will have a fairly good catch record.

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Joe Herbold, Walleyes Unlimited, stated in 1984 Fort Peck saw very little utilization. Now in 1998, boats can be seen on the reservoir any given day. He said the potential hatchery represents protection for the infrastructure. Fort Peck is going to see an increased utilization in the years to come and they cannot wait for the biological need. Now is the time to begin the process of safeguarding and enhancing this vital resource.

Doug Hill, Walleyes Unlimited, said 90% of the members from his chapter fish at Lake Sakakawea in North Dakota. They can catch more fish in North Dakota than in Montana. He commented on the report from the North Dakota Fish and Game Department. Montana Fish Wildlife and Parks reports show Fort Peck averages 1.5 million fingerlings per year. He feels the report shows that increased stocking of fingerlings in Montana is necessary. The fish hatchery will increase fingerling productions for 2.3 million to 5.5 million.

George Anderson, Teton County Walleye Fisherman, entered written testimony, **EXHIBIT(fis55a09)**.

Dale Gilbert, Walleyes Unlimited, entered a witness statement, **EXHIBIT(fis55a10)**.

Mark Weed, Kalispell, entered written testimony, **EXHIBIT(fis55a11)**.

James Carver, Malta Chamber of Commerce and Agriculture, and Malta Chapter of Walleyes Unlimited, entered letters from both organizations and written testimony, **EXHIBIT(fis55a12)**.

Carl Seilstad, Walleyes Unlimited, entered written testimony, **EXHIBIT(fis55a13)** and a Montana Fish, Wildlife and Parks newsletter, **EXHIBIT(fis55a14)**.

Randy King, Walleyes Unlimited, entered a witness statement, **EXHIBIT(fis55a15)**.

Fred Easy, Helena, entered a witness statement, **EXHIBIT(fis55a16)**.

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Chuck Worley, Wolf Point/Poplar Walleye Chapter, supported HB 20 and HB 26.

Doug Adolphson, LACASA Motel, Glasgow, supports HB 20 and HB 26. He would like his grandson have the opportunity to catch fish from Fort Peck.

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Opponents' Testimony:

Jerry Wells, MT Chapter of American Fishery Society, opposed HB 20 and HB 26. He said a comprehensive warm water fisheries management plan was completed two years ago. The plan does not describe a need for additional warm water fish for the life of the plan. He said the Miles City fishery is not completed. In their opinion it would be cheaper to add more capacity at an existing hatchery facility than to construct a new facility at Fort Peck. He commented on a study done by a private consulting firm for the State of Montana. He said another feasibility study should be done by Fish Wildlife and Parks to determine the most cost affective means of increasing warm water fish production. He said the fishery of Fort Peck is very dynamic. He said Fort Peck received an average of 1.7 million walleye fingerlings since 1992 and addition 20-30 million fry. He said fishing pressure on Fort Peck is low.

Bill Holdorf, Skylines Sportsmen Association and Anaconda Sportsman's Association, said fry do reproduce. He entered and explained a handout, **EXHIBIT(fis55a17)**.

Kate Grant, MT Trout Unlimited entered a handout by Montana Council, **EXHIBIT(fis55a18)**. She said the fish hatchery is not needed. Montana cannot afford a multi-million dollar fish hatchery.

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Informational Testimony:

Pat Graham, FWP, entered written testimony for HB 20, **EXHIBIT(fis55a19)**, and HB 26, **EXHIBIT(fis55a20)**. He entered a fiscal note, **EXHIBIT(fis55a21)**. He also entered written testimony from Darlyne Dascher, FWP Commissioner from Region 6, **EXHIBIT(fis55a22)**.

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Questions from Committee Members and Responses:

SENATOR FRANKLIN wanted to know more about the development of the idea of the fishery. She asked what is permanent job economic development potential. **REPRESENTATIVE KITZENBERG** said the idea germinated from members of the fish hatchery system review committee. He referred to **EXHIBIT #2** which included members who recommended a fish hatchery. He said Chuck Lawson contacted him to pursue the idea of developing the idea of a new hatchery. He referred to a study done by the State of Montana Fish hatchery system review. He said when the hatchery is developed and running, there will be between 3 and 4 employees. The employees are built into the fee and will be no additional cost to the state.

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SENATOR DOHERTY said he understood Pat Graham's testimony to say if the bill is not adopted then the FWP get federal money and do a feasibility study. He asked if that was an accurate characterization and how much has been done to get the federal money. **Pat Graham** said his characterization was not correct. He said even if a stamp was put in place, it could not be put in place any sooner than the next year's fishing season. He said they would not know how much funding was available until after the year. It would be a year and half before anything could be

done. He has forwarded the FWP an estimate of feasibility and a plan cost to the Congressional Delegation to make them aware.

SENATOR DOHERTY asked if the funds are inadequate to support the construction, maintenance, and operation of the fish hatchery, where is the money going to come from, and is it the general obligation of the state to maintain a 12-14 million dollar facility. **Pat Graham** replied the amendments in the House restricted the application of the fee which reduced the Fiscal Note to those waters that are currently stocked or would be stocked by the Fort Peck hatchery. The FWP looked at the waters which are currently being stocked by the Miles City fish hatchery and applied that to the use estimates. There is a disagreement on whether or not their numbers are accurate. He said the public will not have to purchase a stamp if they fish on a body of water that is not being stocked from the Fort Peck hatchery. He understood that the bills do not appropriate any money. There is no appropriation and there is no commitment of any State Funds other than the earmarking of the funds that will be raised from HB 26.

SENATOR DOHERTY asked if there is a biological need for an additional warm water fish hatchery in Montana. **Pat Graham** responded by saying Kitzenberg characterized the dilemma well. He said it is not a biological issue, it is a recreational issue. It is more complicated with predators like walleye. They depend on a forage base.

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SENATOR MCCARTHY asked what Representative Kitzenberg comment on the FWP proposal especially the feasibility study.

REPRESENTATIVE KITZENBERG referred to exhibit #2. He said Representative Bergsagel there were two things missing concerning authorization. One was there was an amendment for HB 649 to authorize the building of the Fort Peck fish hatchery. It will be authorized in HB 5 that the construction of this project is not subject to bid requirements. There is an amendment proposed for HB 5 to construct the Fort Peck fish hatchery. He said the problem with the feasibility study is they feel like they are starting over. He said if the feasibility study is conducted, then they will have to come back at the next session of the legislature to begin construction. They feel if they can pass these two bills this session, that their staff will bring in \$250,000 a year which will be matched 3:1 by the federal government.

SENATOR TAYLOR asked why North Dakota is attracting Montana fishermen to their state. He asked if it is Montana's waters or

isn't there enough stock. **Pat Graham** had the walleye catch rates for the Missouri River Reservoirs for Montana, North Dakota, and South Dakota for 1997. He said the catch rate for Fort Peck was .25 and Sakakawea's rate was .29. He understands South Dakota has reached a point where they have a predator base that is larger than their forage base. **SENATOR TAYLOR** asked how the electronic licensing, which was passed last session, was coming along. **Mr. Graham** said the contract was just signed. He said the project will be piloted in the fall of 2000 and will be running on March 1, 2001.

SENATOR TAYLOR asked if they thought of charging an outfitter who uses Fort Peck. He asked if they thought for other ways to raise money. **REPRESENTATIVE KITZENBERG** replied they have been thinking of ways to raise money from day one. He said the \$5 dollar stamp was the one idea most people agreed upon. He said it will be easier for them to secure federal money if they can implement the stamp as soon as possible. He said doing anything locally will not raise significant numbers. He said the walleye fishermen in Montana said they would pay the \$5. He thinks they can do it with what they have.

SENATOR BECK asked about the Fiscal Note entered by Pat Graham. **Pat Graham** replied when the amendments were made the first Fiscal Note was prepared prior to the House hearing. There were a number of amendments made through the process before the bills came to the Senate. There was not a new Fiscal Note requested. Fish Wildlife and Parks provided the best information they had available. **SENATOR BECK** said the sponsor said they will bring in \$250,000 a year but the FWP estimated only \$160,000 a year. He asked if that is correct. **Mr. Graham** replied it is correct based on the use. They can't estimate the number of anglers who use a particular water. They take the number of days of use on various waters and they figure how many fishermen buy licenses statewide. Then they get an average of number of days. They try to figure for the amount days of fishing occurred on the waters about how many anglers might buy those licenses.

SENATOR BECK asked about the amendment established in the House dealing with the FWP identifying the fisheries. He asked if the amendment was determined by the percentage of warm water fish versus trout in order to determine what areas FWP will clarify as warm water fisheries. **Pat Graham** said the amendment established a requirement to purchase the \$5 stamp for those waters which would be stocked out of the hatchery. Fish Wildlife and Parks used the figures for those waters and estimated how many anglers might use the waters.

SENATOR BECK asked about the Fiscal 2000 Energy and Water Appropriation Bills. He asked if Mr. Graham would explain where they could raise the money and if it could be accomplished.

Mr. Graham said there is some misunderstanding about what is necessary for a feasibility and planning study. He said the studies are not additional delays. He said this is a proposal to get the work initiated through Federal Funds. He said the Fiscal 2000 Energy and Water Appropriation Bill would be the mechanism for Congress to appropriate those funds. Fish Wildlife and Parks estimate the cost of the studies would be about \$590,000.

SENATOR BECK asked if it would make any sense to allow the warm water stamp to start raising money revenues but deferred the hatchery for two years. **Mr. Graham** said that is what he was recommending.

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SENATOR BECK asked what Representative Kitzenberg's opinion of allowing the warm water stamp to start raising money revenues but deferred the hatchery for two years. **REPRESENTATIVE KITZENBERG** replied they have done feasibility studies. He commented on a study done between the Miles City and Glasgow sites were compared. He referred the question to Chuck Lawson for a more in-depth response on how inaccurate crude studies are.

SENATOR BECK said the plan was to borrow the money to build the hatchery and to make the payments. He said FWP say it wouldn't work. He asked why Chuck Lawson thinks it will still work.

Chuck Lawson said the hatchery will be built as money becomes available. It will be a phased in project of 40 earthen ponds. Construction would not start until 2002. He referred the question to Brian Milne. **Mr. Milne** said there is additional feasibility or preliminary work being done on the project. The reason for additional funds being spent on the study before the construction starts is to determine how to build in phases as money becomes available. If the stamp is in place March 1, 2000 there will be money available to match with federal dollars through the power and energy bill to do the preliminary engineering. This will highlight how much the project is going to cost ultimately and how this can be broken down in stages as money is available. They will know how much money is generated each year from the stamp sale by implementing the stamp sale prior to the construction of the project.

SENATOR DOHERTY asked if they would support the bill if FWP was to do a feasibility study and determined the cheapest, most cost effective, most efficient thing to do would be to expand the Miles City fish hatchery. **REPRESENTATIVE KITZENBERG** said it is better not to have all their eggs in one basket. They have

demonstrated that they can raise Chinook salmon. He said that is a \$700,000,000 economic thing locally.

SENATOR MESAROS asked what type of understanding is between them and Corps of Engineers for the land. **REPRESENTATIVE KITZENBERG** referred the question to Roy Snyder. **Mr. Snyder** said there has been a preliminary availability study done and there is a letter signed by the Chief of the Operations Division saying the land will be available. He said the only possibility of the land not being available is if an environment study discovered an archeological site.

SENATOR MESAROS said they are looking at this as mainly enabling legislation to initiate funding. **REPRESENTATIVE KITZENBERG** said that phase was amended into the bill so there was no misunderstanding. He said originally they did get a feasibility study with them borrowing the money. It is amended in the bill saying "as funds become available".

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Closing by Sponsor:

REPRESENTATIVE SAM KITZENBERG, HD 96, Glasgow, said Fort Peck has its own management plan and is not part of the warm water plan and could not be included when the study was done on the stocking needs. He said the bills are peoples' bills. He said there are over 80 signs promoting the fish hatchery in eastern Montana. He said FWP is going to manage the hatchery once it is built. Their main goal is economics and to meet the needs of fishermen in the State of Montana. He would like the committee to pass the bills to see how much money it will raise. They have made amendments so this can become reality. They have tried to meet Representative Bergsagel's concerns. He said it is time for Montana to start planting Chinook salmon since they have difficulty getting eggs from North Dakota. He thinks it would be foolish for Montana to reject a proposal like this.

ADJOURNMENT

Adjournment: 5:30 P.M.

SEN. KEN MESAROS, Chairman

ADRIENNE PILLATZKE, Secretary

KM/AP

EXHIBIT (fis55aad)